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EXAMINER
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ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
05/25/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patents@chadbourne.com

	Application No.	Applicant(s)
	10/599,449	LI ET AL.
Office Action Summary	Examiner	Art Unit	
	STEPHANIE DELICH	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *23 February 2012*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5) ☒ Claim(s) *1-9,20 and 22* is/are pending in the application.

    5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6) ☐ Claim(s) _____ is/are allowed.

7) ☒ Claim(s) *1-9, 20, and 22* is/are rejected.

8) ☐ Claim(s) _____ is/are objected to.

9) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10) ☐ The specification is objected to by the Examiner.

11) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Status of Claims

1.   This action is a Final rejection in reply to the amendment filed on 23 February 2012.

2.   Claims 1-21 were subject to a restriction requirement, Claims 1-9 and 20 were elected with traverse.

3.   Claims 1-9 and 20 have been amended.

4.   Claim 22 has been added.

5.   Claims 1-9, 20, and 22 are currently pending and have been examined.

Election/Restrictions

6.   Applicant's election with traverse of Claims 1-9 and 20 in the reply filed on 23 February 2012 is acknowledged but the requirement was made final as of 23 September 2011.   The traversal was on the ground(s) that there is no undue burden for the examiner to conduct a substantive search.   This was not found persuasive because this application is a 371 of PCT/CN2005/000400 and contains inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The groups of inventions listed do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Group I illustrates a special technical feature where impression data and

other data types are analyzed to determine predictive customer data. Specific features related to confidence, transactions and historic dealings are analyzed to predict customer related data. Group II describes a special technical feature where a number of modules which work together to analyze salesperson performance and other data sources to generate sales forecasts. Group I does not contain the concept of sales forecasting based on the specific features described in Group II such as salesperson performance parameters and Group II does not describe the ability to analyze impression data based upon confidence indicators or transaction specific data. Each analysis is based upon different features of sales management and produce different analytical results; therefore, there is no general inventive concept. Group III illustrates a special technical feature relating to predictive sales management where analysis is performed on different phases of a purchase process to develop and implement customer needs management strategy. Neither Groups I or II describe any features relating to an analysis that considers phases of a purchase process or outputs a needs management strategy. These features define the contributions which each of the claimed inventions attempt to make over the prior art. No single general inventive concept is claimed and the claims are not considered alternatives to one another.

Response to Amendment

7.   Applicant's amendments to claims 1 and 20 are sufficient to overcome the 35

USC 101 rejections previously raised. These rejections are respectfully withdrawn.

8.   Applicant's amendments have been fully considered; see updated grounds of rejection under 35 USC 103.

Response to Arguments

9.   Applicant's arguments have been fully considered but are not persuasive.

10.   Applicant argues that the cited references fail to teach "analyzing customer impression data and determining predictive customer data". Examiner respectfully disagrees. The newly recited limitations describe impression data as activity data and transaction data, which are both taught by Lortscher in at least Fig. 6A. The ability to determine predictive customer data is taught by Van Der Riet in at least [0174-0176] describing the purchase behavior profiling system which tracks behaviors and preferences in order to increase the likelihood that a consumer will purchase a product by quantifying parameters calculating different factors. See updated grounds of rejection below.

11.   Applicant's arguments with respect to "calculating predictive customer purchasing data by applying the quantified numeric indicators to the created sales event plan evaluation structure" have been considered but are not persuasive. Lortscher teaches calculating predictive data by applying indicators to a plan evaluation and Van Der Riet teaches calculating predictive customer purchasing data using numeric indicators and evaluating a marketing plan's

performance. See updated grounds of rejection below.

12.   Applicant further argues that Van Der Riet fails to teach "calculating predictive

customer purchasing behavior data". Examiner respectfully disagrees. Van Der

Riet teaches the ability to determine the likelihood that a consumer will purchase

a product by utilizing different parameters as illustrated in at least Appendix II.

Further examiner notes that the argument quotes "purchasing behavior data"

which is more specific than the claim currently sets forth. The limitation refers

only to customer purchasing data, the data is not required, based on the current

recitation, to relate to purchasing behavior data but is only required to be any

customer purchasing related data.

Claim Rejections - 35 USC § 101

13.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

14.   Claim 22 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

15.   Claim 22, as recited, is directed towards a **non-statutory** medium. The broadest

reasonable interpretation of a claim drawn to a computer or machine readable

medium typically covers forms of **non-transitory** tangible media and transitory

propagating signals per se in view of the ordinary and customary meaning of

"computer readable medium". In this instance, medium is set forth as non-

statutory. As a result, claim 22 encompasses within its scope signals per se and

is thus not statutory. See in re. Nuijten, 500 F.3rd 1346, 1356-57. To overcome

the rejection, the claim must not encompass a signal or transmission type

medium, such as by specifying non-transitory or storage mediums in the

specification and claim language.

Claim Rejections - 35 USC § 103

16.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

17.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or
        nonobviousness.

18.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject

matter of the various claims was commonly owned at the time any inventions

covered therein were made absent any evidence to the contrary. Applicant is

advised of the obligation under 37 CFR 1.56 to point out the inventor and

invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35

U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35

U.S.C. 103(a).

19.   **Claims 1-9 and 20 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Lortscher, JR. (US 2004/0153389 A1) in view of Van Der

Riet (US 2003/0126146 A1).

20.   As per **Claims 1 and 20** Lortscher teaches:

A sales management system, method and medium comprising:

- *a memory* (Lortscher Fig. 1 illustrates a system for generating transaction

  recommendations which includes the ability to store information, i.e. memory,

  as is described in at least [0051-0072])*;*

- *a processor disposed in communication with said memory, and configured to*

  issue a plurality of processing instructions stored in the memory (Lortscher

  Fig. 1 illustrates a system for executing a plurality of processes via the

  system's automatic function, i.e. configured to issue processing instructions

  stored in the memory, as is described in at least [0051-0072])*, wherein the*

  processor issues instructions to:

- *access(ing) a sales management system customer resource database*

  (Lortscher in at least [0073-0075] and Fig. 1B illustrates a series of databases

  in a system for generating transaction recommendations, item 108 illustrates

  a profile database, item 110 illustrates a transaction database, item 115

  illustrates a completed assessments database, and item 118 illustrates a

completed evaluations database as is described in at least [0051-0053] which

are accessed to gather information as described further in Fig. 5 item 5-1

which describes retrieving information from the system's data storage as

described in [0085-0086]);

- *obtain(ing) customer impression data with regard to a customer desired sales*

    object via a system user interface (Lortscher Fig. 5 illustrates and is described

    in at least [0085-0086] as retrieving (i.e. obtaining) data with regards to a

    requested object (i.e. a customer desired sales object)), *said customer*

    impression data including customer activity data and customer transaction

    data (Fig. 1B illustrates gathering data relating to user activity and

    transactions through the user profile information and user transactions as is

    described in at least [0073-0076], Fig. 6A and its associated text further

    illustrates obtaining both activity and transaction data for particular objects via

    the system and interfaces such as those illustrated in at least Fig. 4 and

    describes in [0082-84] (i.e. customer impression data));

- *populate(ing, via a processor) the system customer resource database with*

    the obtained customer impression data in a data template format (Lortscher in

    at least [0011] describes capturing data and loading it into a database via the

    exemplary interfaces illustrated in at least Figs. 12 and 13, [0014] describes

    receiving data in a database, [0064] describes how the system accounts for a

    user's stated/input preferences and goals, Fig. 1B further illustrates that the

    user profile and transaction information can be gathered from internal or

external sources as described in [0073-0076] and is used to populate databases 108 and 110, Fig. 2 and [0079] illustrate and describe how the records of the user profile database are maintained and arranged in a specific formal, i.e. a data template, as is the transaction database described in [0080-0081] and illustrated in at least Fig. 3, Fig. 5 item 5-4 also illustrates writing any retrieved data to a database);

- *obtain(ing) an identification of plan parameters from the user interface* (Lortscher Fig. 1B illustrates obtaining plan parameters, Fig. 5 item 5-3 illustrates applying rules to calculate (i.e. obtain) plan parameters, Fig. 6A illustrates selecting records and calculating different values for different parameters including gain, comp score, trade activity level, skill level, transaction strength and confidence level (i.e. obtaining plan parameters), Fig. 9A illustrates in at least 9-5 calculating expertise, conviction and certainty components (i.e. plan parameters));

- *quantify(ing) the obtained customer impression data* (Lortscher Fig. 5 item 5-3 and 5-4 illustrate calculating numeric values for the transaction and activity data gathered for each object and writing the results of the assessment rules (i.e. quantifying the impression data into numeric indicators), Figs. 6A and 6B illustrate a number of quantified values calculated from the obtained customer impression data for activities and transactions, Fig. 9A illustrates calculating the expertise, conviction and certainty (i.e. quantifying through numeric indicators, customer activity and transaction data);

- *create(ing) a plan evaluation structure based on the identified plan parameters* (Lortscher Fig. 1B illustrates creating an evaluation and assessment in the assessment and evaluation engines by developing and obtaining assessment and evaluation rules (i.e. creating an evaluation structure from plan parameters), Fig. 6B illustrates an evaluation structure for the plan parameters, Fig. 9B illustrates an evaluation structure for the plan parameters);

- *calculate(ing) predictive data by applying the quantified numeric indicators to the created plan evaluation structure* (Lortscher in at least Fig. 5 illustrates a process for gathering data and evaluating the data, Lortscher [Abstract] describes generating recommendation data, i.e. predictive customer data, [0003] describes analyzing investor, performance and action data to generate recommendations, [0014, 0033-0034, 0044, 0046] describes generating recommendation data, in at least Fig. 5 illustrates gathering past transaction data, industry data, object data, action data, user data, and market info to calculate a competence, similarity and confidence level (i.e. applying quantified indicators to the plan evaluation structure) as is illustrated in at least Fig. 9B and described in [0131-0146], [0012-0013] describes basing a recommendation on an evaluation of data and degree of confidence, [0035 and 0039] describe confidence and generating confidence indications); *and*

- *provide(ing) the calculated predictive data via the system user interface* (Lortscher in at least Fig. 1B item 111 illustrates a user evaluation access

point, [0012] describes delivering recommendation data (i.e. predictive data) to the subscriber through the system illustrated in at least Fig. 1A and Fig. 4 and the interfaces described in at least [0082-0084, 0149, 0153-0158]).

Lortscher teaches storing customer resource data in a database where the data includes user input data, confidence indicators, transaction specific data, historic dealings, etc. which are analyzed to predict and provide predicted data to a user.

Lortscher does not explicitly recite obtaining identification of target customer parameters from the user interface, that the plan parameters and evaluation are for a sales event plan, quantifying the identified target customer parameters into numeric indicators, or that the calculated and provided predictive data is predictive customer purchasing data.

However, Van Der Riet teaches a marketing communications and transaction distribution services platform for building and managing personalized customer relationships. Van Der Riet in at least [0014] describes targeting advertising at specific consumers, further in at least [0041, 0056, 0060, 0096-0097, 0133, 0136, 0160, etc.] and illustrated in Figs. 12(a)-(c) the ability to collect consumer attitude information and feedback information for a consumer "target audience" based on categorized attributes (i.e. target customer parameters) describing the consumers which can be reported to advertisers and retailers so that the attitudes and responses can be assessed to predict and assess effectiveness and performance (i.e. quantified target customer parameters into

numeric indicators) of an advertising or marketing initiative (i.e. sales event plan) as is described in at least [0099-0129, 0182-0187]. [0174-0176] describes the purchase behavior specific profiling system which tracks behaviors and preferences in order to increase the likelihood that a consumer will purchase a product. [0029] describes using the attributes and purchasing profile to determine the effectiveness of an ad to influence purchasing behavior and an indication that a consumer is more likely to purchase a product with a certain discounted price (i.e. calculated predictive customer purchasing data) as is further described in at least [0132-0136, 0150-0163]. See illustrations on at least Pg. 13-14 Tables 1 and 2 showing target audiences, Appendix II on Pgs. 20-112 showing target audiences and performance indices, consumer parameters, calculations predicting consumer purchasing behavior, and calculating for determining ad effectiveness.

Therefore, it would be obvious to one of ordinary skill in the art to modify the transaction based recommendation generation system which obtains plan parameters, quantifies plan parameters into indicators, and analyzes a vast variety of data to make recommendations, e.g. predictions for successful transactions with the techniques for determining a target audience with particular target consumer parameters, using those parameters to quantify data into indicators of performance, and calculate predictive purchasing data by applying the numeric indicators to an evaluation plan to assess performance because by combining the techniques for quantifying and evaluating target consumers in a

sales event evaluation system with the transaction evaluation system because each of the elements were known, but not necessarily combined as claimed. The technical ability existed to combine the elements as claimed and the result of the combination is predictable because each of the elements performs the same function as it did independently. By quantifying the target consumers and sales event plan with specific parameters, the combination enables the evaluation of the performance of the parameters by assessing the effectiveness of each element which can then be utilized to predict future customer behavior or a customer's likelihood of making a purchase which will increase overall revenue and profitability for each transaction and activity by applying specific ads or motivations to the customers most likely to purchase based on the determined criteria.

21.   Lortscher in view of Van Der Riet teach the limitations of Claim 1 above. As per **Claim 2** Lortscher further teaches:

- *wherein the customer data* (Lortscher in at least Fig. 1B illustrates an assessment engine and evaluation engine for analyzing data as is described in [0012-0014, 0033-0040, *includes a relating status indicator, views on criteria, buying points and selling points, data related to the phases of the purchase process, and data related to characteristics associated with at least one key person corresponding to a particular customer* (Lortscher [0076] describes accounting for different points in the investment evaluation process by updating records as information is discovered, e.g. phases of a purchase

process, [0060, 0069, 0081] describes transaction control data, such as "buy",

actions such as "not buy" or "hold", and "sell" or "buy" transactions, [0048,

0052-0054] describes using characteristics of users and data to generate

recommendation data, [0088] describes preferences and transaction criteria,

e.g. views on criteria, [0154] describes utilizing status information).

Lortscher does not explicitly recite that the analyzed data is impression

data which includes a customer attitude indicator. However, Van Der Riet

teaches a marketing communications and transaction distribution services

platform for building and managing personalized customer relationships. Van

Der Riet further describes in at least [0041] an illustrated in Figs. 12(a)-(c) the

ability to collect consumer attitude information and feedback information which

can be reported to advertisers and retailers so that the attitudes and responses

can be assessed to predict and assess effectiveness as is described in at least

[0182-0185]. Van Der Riet further teaches in at least [0174] the ability to provide

specific consumer ratings and opinions which are considered valuations

indicating a customer's attitude. Van Der Riet is combined with the primary

reference based on the reasons and rationale set forth in the rejection of Claim 1

above.

22.   Lortscher in view of Van Der Riet teach the limitations of Claim 2 above. As per

Claim 3 Lortscher further teaches:

- *wherein the processor further issues instructions to translate a system user's*

  customer data to derive a customer's confidence indicator (Lortscher in at

least Fig. 5 step 5-3 illustrates the system calculating a confidence level from evaluated data and indicators, [0035] describes a calculated indicator describing confidence, [0055] describes how the system performs an assessment to calculate (i.e. translating data to derive) confidence levels, [0100-0103 and 0113] describe how the assessment calculates a confidence rating from the transaction data in the evaluation process).

Lortscher does not explicitly recite that the data relied upon to calculate the confidence is a customer attitude indicator valuation. However, Van Der Riet teaches a marketing communications and transaction distribution services platform for building and managing personalized customer relationships. Van Der Riet further describes in at least [0041] an illustrated in Figs. 12(a)-(c) the ability to collect consumer attitude information and feedback information which can be reported to advertisers and retailers so that the attitudes and responses can be assessed to predict and assess effectiveness as is described in at least [0182-0185]. Van Der Riet further teaches in at least [0174] the ability to provide specific consumer ratings and opinions which are considered valuations indicating a customer's attitude. Van Der Riet is combined with the primary reference based on the reasons and rationale set forth in the rejection of Claim 1 above.

23.   Lortscher in view of Van Der Riet teach the limitations of Claim 2 above. As per **Claim 4** Lortscher further teaches:

- *wherein the processor further issues instructions to facilitate a system user*

designing a sales event that includes at least buying and selling points for the

at least one customer key person (Lortscher [0014] describes using the

evaluation techniques and system to generate recommendation data which

may include proposed transactions (i.e. designed sales events for a user) with

particular objects, a particular object price, size, name, and/or source as is

described in [0016], [0060, 0069, 0077-0078, 0081] describes transaction

control data, such as "buy", actions such as "not buy" or "hold", and "sell" or

"buy" transactions for the receiving user, and the ability to develop rules for

creating and maintaining the assessment and evaluation (i.e. facilitating user

design of an event).

24.   Lortscher in view of Van Der Riet teach the limitations of Claim 4 above. As per

Claim 5 Lortscher further teaches:

*   *wherein the processor further issues instructions to facilitate development of*

    an action plan (Lortscher [0014] describes using the evaluation techniques

    and system to generate recommendation data which may include proposed

    transactions (i.e. developing an action plan) based on the data of the

    transactions determined to be relevant, [0077-0078] describe developing

    rules which govern the creation and maintenance of transactions,

    assessments and evaluations) *and related cost estimates* (Lortscher in at

    least [0044] describes that the recommendations relate to reliable financial

    investment recommendations, e.g. cost estimates, [0066] describes taking

    costs directly into account in order to adjust evaluations based on cost and to

highlight contingencies to a subscriber).

25.   Lortscher in view of Van Der Riet teach the limitations of Claim 5 above. As per

Claim 6 Lortscher further teaches:

- *wherein the processor further issues instructions to facilitate a sales event assessment analysis* (Lortscher in at least Fig. 1 B items 112 and 116 illustrate assessment and evaluation engines to assess transactions, i.e. sales events, Fig. 8 item 8-1 illustrates retrieving assessment records for evaluation of completed transaction assessment, [0012] describes evaluating the assessment output as is further described in at least [0039-0040], Fig. 1 is described in [0051] as a transaction evaluation system for analyzing transaction information, the analysis capabilities are further described in at least [0062, 0073, 0076-0077, 0085 and 0116).

26.   Lortscher in view of Van Der Riet teach the limitations of Claim 6 above. As per

Claim 7 Lortscher further teaches:

- *wherein the processor further issues instructions to facilitate a system user to store data describing the sales interaction with the customer related to the results of the designed sales event* (Lortscher in at least Fig. 1B item 115 illustrates a completed assessments database, item 118 illustrates a completed evaluations database (i.e. a module configured to store interaction data related to the results of a transaction), Fig. 8 item 8-4 illustrates storing the results of an evaluation as is further described in at least [0012, 0051, 0062, 0069-0070, 0076-0078, 0085 and 0117]).

27.   Lortscher in view of Van Der Riet teach the limitations of Claim 7 above. As per

Claim 8 Lortscher further teaches:

- *wherein the processor further issues instructions to a system user to evaluate the success of a sales event* (Lortscher in at least Fig. 9A illustrates evaluating the success of transactions by aggregating assessments and corresponding rules, [0012] describes using the assessments and evaluations to estimate the effectiveness of various courses of action, [0062] describes using different analysis calculations to determine if a course of action is successful as is further described in [0090, 0110, 0116]).

28.   Lortscher in view of Van Der Riet teach the limitations of Claim 8 above. As per

Claim 9 Lortscher further teaches:

- *wherein the processor further issues instructions to facilitate system user research for a particular customer based on a customer's sales events* (Lortscher [0033-0034] describes the ability to identify distinct styles and goals of specific traders or entities with distinct records of transactions that can be assessed by the system by receiving past transaction histories, [0062] describes the ability to perform additional supplementary calculations as a function of aggregating evaluations to determine based on historical info (i.e. facilitating research for a particular customer based on past data) particular probabilities or course of action which were successful and other similar user's likelihood of success, [0065] describes making evaluations available to subscribers in varying degrees of detail to develop investing strategies of their

own independent of system algorithms, users have the ability to search (i.e. research) and track individual transactions, users, activities, etc. [0084-0085, 0089, 0149, 0151] describes requesting particular evaluations and selecting assessments so that results can be displayed and analyzed).

29. **Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lortscher, JR. (US 2004/0153389 A1) in view of Van Der Riet (US 2003/0126146 A1) further in view of Isaji et al. (US 2002/0188563 A1).**

30. The limitations refer to substantially similar subject matter to that set forth in Claims 1 and 20 above and are therefore rejected based on the same reasons and rationale set forth in the rejections of said claims above. With regards to the computer readable medium storing the instructions to execute the methodology, neither Lortscher nor Van Der Riet explicitly recite implementing instructions from a medium, however, Isaji teaches in at least [0027-0035] the ability to maintain a program for predicting purchase behavior on a computer readable medium.

Therefore, it would be obvious to one of ordinary skill in the art to combine the methodology for predicting and reporting behavior with the techniques for predicting behavior via instructions stored on a medium because each of the elements were known, but not necessarily combined as claimed. The technical ability existed to combine the elements as claimed, and the result of the combination is predictable because each of the elements performs the same function as it did independently. By storing the method instructions on a medium for implementation, the combination increases the applicability of the method by

enabling its application on any local computing device.

Conclusion

31.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in

37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

32.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

-    O'Brien et al. (US 2002/0002485 A1) Method and Apparatus for Selective

Distribution of Discount Coupons Based on Prior Customer Behavior.

-    Gilbert (US 2008/0162574 A1) Analytical E-Commerce Processing

System and Methods.

33.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie Delich whose telephone number is (571)270-1288. The examiner can normally be reached on Mon-Fri 7 to 4 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephanie Delich/
Examiner, Art Unit 3623

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